

The Honorable Ronald B. Leighton

**UNITED STATES DISTRICT COURT  
WESTERN DISTRICT OF WASHINGTON  
AT TACOMA**

CRYSTAL AMMONS,

Plaintiff,

v.

STATE OF WASHINGTON  
DEPARTMENT OF SOCIAL AND  
HEALTH SERVICES; NORM  
WEBSTER, individually and in his  
official capacity acting under color of  
state law; and MARY LAFOND,  
individually and in her official capacity  
acting under color of state law,

Defendants.

NO. C08 5548 RBL

STIPULATED PETITION AND  
ORDER FOR ISSUANCE OF  
SUBPOENA TO TAKE THE  
DEPOSITION OF A FEDERAL  
EMPLOYEE

**I. STIPULATION**

Pursuant to Fed. R. Civ. P. 29 and 30, Defendants State of Washington, Department of Social and Health Services, Norm Webster and Mary LaFond, by and through their attorneys of record, and Plaintiff Crystal Ammons, by and through her attorneys of record, and hereby petition the Court for the issuance of a subpoena for the deposition of Mary C. Rutherford. The basis for this Petition is as follows:

1. Mary C. Rutherford may have knowledge relevant to the above-captioned lawsuit. The parties have agreed to schedule Ms. Rutherford's deposition for 9:00 a.m. on July 21, 2009, at the Office of the Attorney General in Tacoma, Washington.
2. Ms. Rutherford is an employee of the United States, Department of the Army, stationed at Madigan Army Medical Center. Pursuant to 32 C.F.R. 97.6(c), 516.35 and 516.40, the Army must authorize the appearance of its personnel for testimony in private litigation and cannot do so unless the subpoena for said testimony is signed by a judge or court of competent jurisdiction. *See, e.g., Doe v. DiGenova*, 779 F.2d 74 (D.C. Cir. 1985).
3. Ms. Rutherford's testimony is thus not available for compulsory process except by issuance of a subpoena issued by a judge or court of competent jurisdiction.
4. Ms. Rutherford is willing to appear for her deposition on the date and time noted above provided that the Court issues the subpoena requested herein.
5. The parties thus respectfully request that the Honorable Ronald B. Leighton execute a subpoena for the deposition of Ms. Rutherford at 9:00 a.m. on July 21, 2009, at the Office of the Attorney General in Tacoma, Washington. An unsigned copy of the requested subpoena is attached hereto as **Exhibit A**.
6. Defendants will serve Ms. Rutherford with a signed copy of the subpoena upon receipt.

DATED this 10th day of July, 2009.

ROBERT M. MCKENNA  
Attorney General

/s/Ian M. Bauer  
PATRICIA C. FETTERLY, WSBA No. 8425  
IAN M. BAUER, WSBA No. 35563  
Assistant Attorneys General  
Attorneys for Defendants

HAGENS BERMAN SOBOL SHAPIRO LLP

/s/David P. Moody  
DAVID P. MOODY, WSBA No. 22853  
ANTHONY D. SHAPIRO, WSBA No. 12824  
MARTIN D. MCLEAN, WSBA No. 33269  
Attorneys for Plaintiff

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3 **II. ORDER**

4 Based upon the foregoing Stipulation, it is so Ordered.

5 DATED this 13<sup>th</sup> day of July, 2009.

6   
7 RONALD B. LEIGHTON  
8 UNITED STATES DISTRICT JUDGE

9 Presented by:

10 ROBERT M. MCKENNA  
11 Attorney General

12 /s/Ian M. Bauer  
13 PATRICIA C. FETTERLY, WSBA No. 8425  
14 IAN M. BAUER, WSBA No. 35563  
15 Assistant Attorneys General  
16 Attorneys for Defendants

17 Approved for Entry:

18 HAGENS BERMAN SOBOL SHAPIRO LLP

19 /s/David P. Moody  
20 DAVID P. MOODY, WSBA No. 22853  
21 ANTHONY D. SHAPIRO, WSBA No. 12824  
22 MARTIN D. MCLEAN, WSBA No. 33269  
23 Attorneys for Plaintiff  
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